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Guam

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I. Background information

Geography and population

1. Guam[1] is the southernmost and largest of the Mariana Islands in the Pacific, situated about 1,350 miles south of Tokyo and 3,700 miles west-south-west of Hawaii. It consists of a single island of approximately 212 square miles. It comprises two distinct geological areas of about equal size. The northern part of the island is a high coralline limestone plateau and the southern region is mountainous. Apra Harbour, which is located on the central western side of the island, is one of the largest protected harbours in the Pacific and is considered to be the finest deep water port between Hawaii and the Philippines. The capital city of Guam is Hagåtña, previously known as Agana.

2. According to the United States Census Bureau's official census, the population of Guam in 2000 was 154,805, an increase of 21,653 (16 per cent) since the 1990 census.[2] An estimate for 2002 by the Bank of Hawaii set the population at 159,547.[3] According to the census, the ethnic and racial composition of Guam's population is 37 per cent Chamorro (who are indigenous to the Territory). The population from the Freely Associated States (the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau) amounts to 11,094 (an increase of 128.18 per cent since 1990), the largest group being Filipinos (40,729), and from other Asian countries, 61,172 (an increase of 30.91 per cent since 1990). The white population was 10,509, a 43.33 per cent decrease since 1990. English and Chamorro are the official languages. Among the important changes revealed in the 2000 census was a much slower population growth rate than in the previous decennial censuses. The 2000 population number of 154,805 was over 15,000 less than the 170,000 estimated before the census. Compounded growth rate in the period 1990-2000 was 1.5 per cent, rather than the earlier projection of 2.3 per cent. The sharp drop in population growth in the period 1990-2000 is not the result of a large drop in the natural increase. Rather it seems to derive from Guamanians migrating to Hawaii and other states for employment opportunities.[3]

3. Most of the population are Christians, mainly Roman Catholic (90 per cent). Other major religious denominations are Baptist, Seventh-Day Adventist, Latter-Day Saints and Episcopalian. Most other religions have adherents in Guam, including Jehovah's Witnesses, Jews, Buddhists and Muslims.[4]

II. Constitutional, legal and political issues

A. General

4. Guam was administered by the United States Department of the Navy until 1950, when the United States Congress enacted the Guam Organic Act, which established institutions of local government and made Guam an organized Territory. Since then, the Territory has been administered by the Department of the Interior. Guam is an unincorporated Territory since not all provisions of the United States Constitution apply to the island. As an unincorporated Territory, in United States law Guam is a "possession of the United States but not a part of the United States".

5. In 2002, the United States Fish and Wildlife Service decided to designate 25,000 acres of Guam, about 19 per cent of the island, as a critical habitat for the island's endangered bird and bat species. The land, which mostly belongs to the military, did not change ownership, but all federally funded projects on the land have to be reviewed to ensure they do not affect the species' native habitat. In October 2003, the Government of Guam was given more time to present an alternative solution. The Service will decide by June 2004 on whether to accept the alternative in part or in whole.[5]

B. Constitutional structure

6. Guam has a locally elected Government, which comprises separate executive, legislative and judicial branches. Universal suffrage with respect to local elections applies to Guamanians 18 years and older. Guamanians are citizens of the United States, but are not eligible to vote in the United States presidential elections while resident in the Territory. The people of Guam elect a Governor, who serves a four-year term. Guam elected its first Governor in 1970. The Governor is responsible for the general supervision and control of the executive branch and submits an annual report to the United States Secretary of the Interior for transmission to Congress. The Governor may issue executive orders and regulations, recommend bills to the Legislature, make his views known to that body and veto legislation.

7. The people also elect 15 senators who serve two-year terms in a unicameral Legislature. The Legislature may override the Governor's veto. Under the Organic Act of 1950, the United States Congress reserves the authority to annul any law enacted by the Guam Legislature.

8. In 1972, a new law gave Guam one non-voting delegate to the United States House of Representatives. The delegate, who serves a two-year term, may vote in committee but not on the floor of the House.

C. Legal system

9. The local judicial system is made up of a Superior Court and a Supreme Court led by judges appointed by the Governor and confirmed by the Legislature. Local judges are subject to confirmation by the voters every six years. A District Court judge, appointed by the President of the United States, is the head of the United States District Court for Guam. In 1998, Congress adopted an amendment to the Organic Act allowing the Guam Legislature to elect its own attorney general in 2002. Douglas Moylan was elected on 5 November 2002 for a four-year term. The Attorney General is the Chief Legal Officer of the Government of Guam. The Office of the Attorney General provides legal services to the Government of Guam and is empowered with prosecutorial authority.

10. At the beginning of 2003 a new bill was introduced to the Legislature under the title "An act to re-organize the Judiciary as the third co-equal and independent branch of the Government of Guam; to designate the Judicial Council as head of a unified Judiciary; and to amend Titles 7 and 19 of the Guam Code Annotated relative to the Judiciary and its operations." The bill, introducing major

modifications in the Guam judiciary system, was passed into law in December 2003 (Public Law 27/31).[6]

D. Political parties and elections

11. Guam has two main political parties, the Republican Party and the Democratic Party, which are local chapters of the two main United States political parties. In November 2002, Guam held general elections. The Republican candidate, Felix Camacho, defeated former Congressman Robert Underwood by 4,500 votes and was elected Governor. The Democratic candidate, Madeleine Bordallo, was elected as Guam's representative to the United States Congress. In the vote for the Legislature, the Democratic Party won nine seats, while six seats went to the Republican Party. In addition, Guamanian citizens also voted to elect the School Board, the Attorney General and the Consolidated Commission on Utilities and to revise the regulation covering the legal drinking age.[7]

E. Political issues

12. Guam has long sought to change its political status relative to the United States. In a 1976 referendum, Guamanians decided to maintain close ties with the United States, but to begin negotiations to improve the Territory's status. In 1979, the people of Guam rejected a draft constitution by a margin of five to one, mainly on the grounds that the question of political status had to be resolved before a meaningful constitution could be drafted.[8] In a 1982 run-off referendum, 73 per cent of voters opted to pursue commonwealth status with the United States. According to the Commission on Self-Determination, established in 1984 to draft a commonwealth agreement, this status was intended to be an "interim" status that would provide an opportunity for Guam to structure a better relationship with the United States.

13. In May 1986, the Commission on Self-Determination completed a draft Commonwealth Act, which, after a public education campaign, was submitted to an article-by-article vote on 8 August 1987 (see A/AC.109/1192, paras. 19-37). Voters approved the central proposal, but rejected articles empowering the Government of Guam to restrict immigration and granting the indigenous Chamorro people the right to determine the future political status of the Territory. In a further referendum in November 1987, both of these outstanding provisions were approved after they had been amended and rewritten. A summary of the main points in the draft Commonwealth Act is contained in the 2001 working paper (A/AC.109/2001/4).

14. Negotiations between the Guam Commission on Self-Determination and the United States Government over the draft Commonwealth Act began again in 1989 and continued through 1997 without resolution (see A/AC.109/2000/6, paras. 19-22, A/AC.109/1192, paras. 19-37, and A/AC.109/2018, paras. 74-83). According to a statement made by the Governor, Carl T. C. Gutierrez, to the House Resources Committee of the 105th Congress in October 1997, the position of the United States executive branch with regard to the draft Act has essentially been that it was unconstitutional insofar as it did not recognize the plenary authority of Congress over Guam.

15. In 1997, Guam public law 23-147 established a Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination. This Commission, in concert with a process of registration of eligible voters by the Guam Election Commission, was to oversee the conduct of a vote on the Chamorro people's status preferences of independence, integration or free association in accordance with international standards.

16. In 2000, the Guam Legislature provided the Guam Election Commission with the power to set the date of the decolonization plebiscite. The plebiscite, which has now been scheduled to take place on 2 November 2004 (see para. 79 below), will ask the Territory's indigenous people, defined by law as persons or descendants of persons who were in Guam at the time of the United States ratification of the Treaty of Peace with Spain in 1898, and/or persons or descendants of persons who received United States citizenship pursuant to the Organic Act of 1950, to choose between statehood, independence or free association with the United States. The plebiscite would be non-binding but would set the course of any future status negotiations with the administering Power.

III. Budget

17. Most of the Government's revenues come from hotel occupancy and gross receipts taxes generated by activities in the tourism industry.

18. In the 2002 budget, the Governor proposed that the Government of Guam borrow up to $427 million on the bond market for government retirement expenses, tax refunds and other government debts. According to the Guam Economic Development Authority, this bond would more than double the Government's bond debt and push the island closer to the maximum allowed bond debt set by federal law. According to press reports, in March 2002 an important credit rating agency downgraded Guam's debt status from the lowest rating in the investment grade category to the category of non-investment. The agency attributed the downgrade to Guam's reliance on a weak tourism industry, a deficit of $99 million and a debt of $440 million.[9]

19. The Legislature approved the bond borrowing, but this decision was challenged by the Attorney General, Douglas Moylan, whose office argued that the borrowing violated Guam's legal debt limit. Supreme Court of Guam justices sided with the Governor on the issue, but the matter is now in the federal appeals court at the Attorney General's request.[10]

20. When the new administration took office in January 2003, following the general elections of November 2002 (see para. 11), it inherited a budgetary and cash shortfall of $283 million, the largest in Guam's history.[3] The Administration predicted that without the bond borrowing the Government would shut down in July or August 2003, with only the essential services of health, education and public safety continuing to operate. This, however, did not happen. To provide immediate relief, the Legislature narrowly approved increases in the gross receipts tax (a tax that providers of goods and services must pay for doing business in Guam) from 4 to 6 per cent, the alcohol tax and the tobacco tax, which the Governor signed in March as part of the budget bill. The legislature also took steps to cut immediately the amount of money spent on the payroll by approving a 32-hour work week for 4,500 employees, from February until late June. The Governor followed up with an

executive order to continue the shorter work week, which lasted until the beginning of August. By that time, the Government's payroll had been cut by about $1 million per day, mainly through retirement and by keeping many job openings unfilled.

21. As a long-term solution, the Governor in May 2003 submitted his fiscal 2004 budget request calling for a substantially down-sized and reorganized Government. However, none of the bills establishing these consolidations were introduced by the Legislature. An additional proposal for a 10 per cent government wage cut as a way to keep agencies running was also not introduced. However, in the Governor's state of the island address on 4 February 2004, the Governor announced that by mid-2004, 12 bills would be before the Legislature, reflecting the reorganization of the Government, reducing 48 agencies to 12 departments, as part of an economic stabilization plan. As part of the reorganization process, the administration also planned to reclassify job standards, qualifications and responsibilities government-wide.[11]

22. In May, the Governor went to Washington, D.C., to discuss his economic stabilization plan with United States government officials. The plan called for increased federal spending assistance, specifically in the areas of tourism, the military and the creation of new industries on Guam, in return for full future financial accountability.[12]

23. The financial resources of the Government have declined substantially over the past few years. Deficits have resulted mainly from tax collections falling short of current and future spending plans. According to the Bank of Hawaii,[3] resistance to the privatization of utilities and the outsourcing of other services that the private sector may offer more efficiently, has been strengthened by the absence of other well-paying jobs on the island, coupled with a long-held local tradition to avoid public employee layoffs. However, in April the Governor successfully proposed legislation to repeal and amend the provisions of law that prohibited privatization.

24. Guam's General Fund (the sum of all taxes and fees and federal funds) offers a view of Guam's shrinking economy and dwindling financial resources over the past decade. The Fund peaked at $561.5 million in 1993, and fluctuated within a narrow range of $500 million to $530 million from 1994 to 1998, suggesting that the component of the tax base, including individual and corporate taxes, showed relatively small changes that were consistent with changes in the business cycle. In 1999, the General Fund dropped to $470 million, the first time in a decade it had dropped below $500 million. In 2000 it rose slightly but was down again in 2001 to $446 million and dropped further to $336 million in 2002, 40 per cent below its peak in 1993. Projections and other preliminary figures show that the General Fund was up to $368 million in 2003, but that figure, although a sign of recovery, would still be 30.5 per cent below the peak.[3]

25. In April 2003, the Governor signed an executive order establishing the Office of Homeland Security within the Office of the Governor of Guam. The Office received $6.42 million in federal funds. For fiscal year 2004, Congress passed a $4.25 million grant to train law enforcement officials to be able to recognize and respond to a potential terrorist incident.[13]

26. In the 2004 budget for the Office of Insular Affairs, the United States Government included $15 million for mitigation aid to Guam, the Commonwealth of the Northern Mariana Islands and Hawaii. In addition, in October 2002, Guam

received $49 million as its annual share of federal funds. The money came from the collection of federal taxes from soldiers and federal employees who live and work in Guam. In December 2002, the Department of the Interior warned that the level of economic assistance that each United States Territory would receive from the Department would be determined in part by the "strength and independence" of its public auditor's office. Additionally, the responsiveness in addressing issues raised in audits would be considered in the process of awarding discretionary grants to these Governments and to other island grant recipients.[14]

27. At the beginning of 2003, Guam and the Northern Marianas established a regional partnership to improve their capacity to lobby for federal United States funds.[15]

28. During 2003, the administration established a Government Corruption Task Force under the Acting Police Chief. Working side by side with the Task Force, the Attorney General's office indicted dozens of former and current employees of the Government of Guam. The Attorney General said that he expected more indictments on government corruption cases and noted that one of the reasons his office had targeted government corruption was to recover public funds that were used for personal expenses. On 30 December 2003, a Superior Court of Guam grand jury handed down two indictments against the former Governor, Carl Gutierrez, who served two terms from 1994 to 2003. The former Governor was indicted on charges that he used more than $64,000 in government supplies and personnel to build his ranch in Urunao, Dededo. In a separate indictment, Mr. Gutierrez and the former Department of Administration Director, Clifford Guzman, were accused of having authorized the use of government funds to pay for the power bills of more than 2,000 private streetlights. The Attorney General said that there were more ongoing investigations involving Mr. Gutierrez, including an alleged illegal water hook-up at his ranch.[10]

IV. Economy

A. General

29. The Guam economy is dominated by tourism, while the public sector (including the United States military) and construction remain important. Farming and fishing are relatively well developed. Vegetables, citrus and tropical fruits, coconuts and sugar cane are grown and livestock, especially poultry, is raised. Manufacturing includes textiles, cement and plastics.[16]

30. During 2002, the economy of Guam faced different problems. In particular, the tourism industry suffered from economic slowdown and natural disasters. The industry recorded a 30 per cent decline in January 2002 caused by the September 2001 events. In the first part of 2002, it was showing signs of recovery when typhoon Chata'an struck the island in July, causing extensive damage. In December 2002, supertyphoon Pongsona damaged and destroyed tourism infrastructure and many homes and buildings. As a consequence, tourist arrivals stopped altogether while business and consumer activities slowed because power, water and telecommunications infrastructure were interrupted. According to local media reports, the Federal Emergency Management Agency and other federal agencies had

committed well over $300 million by June 2003, making Pongsona Guam's costliest natural disaster to date.[3]

31. During 2003, travel fears over the war in Iraq and the Severe Acute Respiratory Syndrome (SARS) epidemic contributed to yet another round of declining tourists, especially from Japan, which accounts for nearly 75 per cent of Guam's tourists. These global events together with the natural disasters and economic problems in the region contributed to the decline in Guam's economy that began in the mid-1990s. During the period 1999-2002, Guam's civilian labour force declined by 14.6 per cent, with a weak economy appearing to be the principal cause. This unprecedented loss has had important implications for the economy and the island's labour force, which has grown more slowly in recent years because Guamanians have migrated to the United States (see also para. 2 above).[3]

32. However, according to the Chief Economist of Guam's Department of Labor, Guam gained 450 jobs during fiscal year 2002/03, when private and government employment reached 54,940, indicating a stabilization of the economy, according to the economist. Additionally, tourist numbers started climbing during the latter half of 2003, after 30 per cent declines in the aftermath of supertyphoon Pongsona.[17]

33. Guam's economy also received a spending boost by businesses and homeowners who received federal assistance and insurance proceeds to rebuild after Pongsona. The military's post-Pongsona rebuilding projects have also benefited the construction industry (see para. 60).[10]

34. According to the two latest economic reports on Guam by the Bank of Hawaii (August 2001 and October 2003), since 1999 the flow of public information on the economy has been severely limited, thus affecting the capacity of both the public and private sectors to make informed decisions. Among the causes of poor availability of economic data are the dismantling of the Guam Finance Commission and the lack of experienced staff in the Government of Guam.

35. The economy is still affected by the 1995 decision to shut down some military facilities on the island. In early December 2002, the President of the United States signed into law a bill that set aside $75 million for military construction projects on Guam for fiscal year 2003. The amount was an increase from the $66 million in military construction projects for Guam in the previous year. The $75 million budget included $6.9 million for the third phase of the Army National Guard Readiness Center, $15.6 million for an off-base water supply for Andersen Air Force Base and $16 million for a new fitness centre at Andersen.[18] According to the Governor in his 2003 annual address, Guam was "continuing to make the case that Guam welcome[d] additional military presence."[19]

36. During 2003, the United States Secretary of Defense, Donald Rumsfeld, toured Guam's military facilities, underlining the importance of the island's location within four hours flying time from the Asian mainland. Mr. Rumsfeld made the visit as part of a tour to discuss "preliminary conclusions" of a global review of United States force posture around the world. During the year, a senior Air Force commander said there were discussions on what he called "a greater military presence in Guam in the light of some potential trouble spots in the region".[20]

37. In January 2004, the United States Air Force was quoted as saying more specifically that the Pentagon was considering rotating long-range bombers through

a giant air base in Guam as a way to off-set the army's heavy commitment of forces in Iraq.[21]

38. Guam is a duty-free port that facilitates the movement of raw materials for manufacturing. It also participates in two major trade programmes designed to promote export-oriented manufacturing: the Harmonized Tariff Schedule of the United States and the Generalized System of Preferences. Nonetheless, the Territory consistently records a trade deficit. The Department of Commerce reported a steady decline in the value of Guam's total exports. The total value was $86.4 million in 1998, $75.7 million in 1999, $73.5 million in 2000 and only $60.8 million in 2001. The main recipient of Guam exports was Japan, with a total value of $30.4 million in 2001. Major export commodities are fish and crustaceans, mineral fuels, oils and waxes, tobacco and manufactured tobacco substitutes and automobiles.[22]

B. Primary economic sectors

1. Agriculture and fisheries

39. The agriculture and fisheries sector has played a small role in the economy of Guam, accounting for less than 1 per cent of total private sector employment. The fishing industry, which began a major expansion in the late 1980s, continued to be important within the sector. In an effort to diversify the economy, Guam has begun to develop fish farms.[23]

2. Manufacturing/industry

40. One of the major industries on Guam, and the third most important economic sector (after tourism and the public sector), is construction. Construction as a generator of employment remains significantly above the average for the United States, although it has been declining during the last decade. In 2002, construction employment was up 21.7 per cent from the previous year, but accounted for only 8.7 per cent of all private sector jobs. The most likely reason for the large gain in payroll in 2002 was construction work assigned to repair damages after supertyphoon Pongsona. According to the Bank of Hawaii the most reliable predictor of future construction activity and investment in fixed assets, as measured by building permits, was Guam's building industry, which was at its lowest level in 2002 when building permits dropped below $100 million for the first time. There is the possibility for increased construction as Guam repairs the infrastructure damage of Pongsona and other sites. In addition the United States military is expected to repair and strengthen the facilities it maintains on Guam.[3]

3. Tourism

41. Guam's tourist industry as well as much of its economy is dependent on the Japanese economy and Japanese tourists. In 2001, 80.2 per cent of tourists to Guam came from Japan, 8 per cent from the Republic of Korea and only 3.7 per cent from Hawaii and the mainland United States combined.[23] In 2002, the tourist industry confirmed its dependency on the Japanese market. According to the Visitors Bureau, the December's 2002 supertyphoon would cost $45 million in lost tourism spending from Japan alone. In addition, because of Japan's long-running economic stagnation in 2002, the average Japanese tourist in Guam spent $676, compared with $1,500 average spent in 1990. During the first nine months of 2003 arrivals from Japan

were down 24 per cent — to 634,829 compared with 836,602 during the same period the previous year. However, in January 2004, overall arrivals exceeded the 100,000 mark for the first time since August 2001.[24]

42. In an effort to open up its markets to tourists from China, the Governor met in October 2003 with the Minister for Foreign Affairs of China to discuss Guam's application for China's approved destination status for Chinese tourists, while at the same time seeking the approval of the United States Government of a Guam-only visa programme for direct flights from China. Under a visa waiver system, citizens of 14 Asian countries board flights to Guam only without visas, filling out landing cards on board.[25]

43. The Government continued to pursue a diversification of the tourism industry and established the Sports Tourism Taskforce to develop and promote this market. In October 2003, the United States Travel and Tourism Promotion Advisory Board announced a $50 million national tourism promotion campaign, for which Guam was eligible to apply. Another issue that might help tourism bounce back from supertyphoon Pongsona is the National Weather Service, which has changed the way it alerts the island about storms and has set in motion a federally funded project to protect critical sections of power lines by placing them underground. The Service has new, sturdier, wind-speed equipment and will use a digital forecasting computer system, allowing the downloading of storm information.[26]

44. Guam had a total of 10,084 hotel rooms in 2001, an increase of 65 per cent since 1991. The December 2002 typhoon caused at least $100 million damage to hotels and government-run utilities and pushed two Japanese-owned hotels into bankruptcy. Two other hotels closed as a result of the 11 September travel downturn. The four closings had reduced hotel rooms by more than 10 per cent to 8,915 in 2002 and reflect occupancy rates that slumped to 57 per cent in 2002, from 87 per cent in 1995. In 2002, $16.2 million were collected in hotel occupancy taxes, down from $20.6 million in 2000.[27]

C. Finance

45. According to the Department of Commerce, bank deposits were at $1.46 million in 2002, up from $1.37 million in 2001. Bank loans decreased from $2.54 million in 2001 to $2.35 million in 2002.[28]

International finance

46. There have been no further developments since the issuance of the previous working paper (A/AC.109/2003/15).

D. Transport and communications

47. In November 2002, the United States Department of Transportation released $5.5 million in Federal Highway Administration Emergency Relief Funds for Guam. Guam will receive $368,000 for the repair and reconstruction of damages on Route 4 in the As-Alonso area caused by the 2001 earthquake, and $5,311,000 for highway repair and reconstruction for damage caused by typhoon Chata'an in 2002. In his annual address on 13 May 2003, the Governor noted that he had begun pushing for

$50 million more in federal funding assistance for highway improvements. In 2003 Guam received $1.2 million in federal funding from the United States Department of Commerce for the design of a hotel wharf expansion.

48. The Port Authority of Guam administers the commercial port facilities at Apra Harbour. It is a public corporation and an autonomous agency of the Government of Guam. Guam's port is a major trans-shipment centre of the western Pacific and is equipped to move containerized bulk and tuna cargo efficiently. In recent years, it has seen an average annual increase of 23 per cent in cargo. The Port Authority is expanding its container yard and is planning to spend $100 million in reconstruction activities up to the year 2005. The Governor is currently pursuing privatization for some of the functions of the port, such as its gantry cranes. In December 2003, it was announced that Guam would receive $518,900 in federal funding from the Department of Homeland Security as part of a national effort to enhance security at key ports and facilities.[29]

49. The refurbishment of the Guam International Airport's runway system began in 2002. The first phase of the federally funded runway extension and renovation project was launched to extend the length of the two runways and to build a new taxiway to add safety to the airport. The whole project was expected to last two years and cost $20 million.[30] At present, the Guam International Airport is the most modern in the western Pacific.[31] In May 2002, Philippine Airlines announced that it would operate new flights three times a week from Manila to Guam.[32] RCA Global Communications and IT&E handle cablegrams, facsimile and telex messages and overseas telephone calls. At the beginning of 2003, a local company launched an online text service to enable mobile communications between users of the Global System for Mobile Communications in Guam and the Philippines at a cost of $0.05 per message.[33] The United States Postal Service handles mail delivery. Commercial mail delivery is also available through Federal Express and DHL. Guam has a daily newspaper, a newspaper published three times a week, several weekly and monthly commercial publications and military journals. According to the Federal Communications Commission, there are currently 11 FM and 2 AM radio channels, 3 local television channels and 1 cable television service provider. Two major radio stations had to interrupt service after the supertyphoon Pongsona hit the Territory.[34]

50. High-technology communications may represent an emerging growth sector for Guam. The Governor and Legislature have made information technologies a priority as part of a general effort to diversify the economy. Guam serves as major telecommunications hub for the Asia/Pacific rim.

51. During the review period the Governor and the Speaker of the Guam Legislature asked the United States Government for a reduction or write-off of government debts including a $100 million Guam Telephone Authority loan. On 3 February 2003, the Guam Legislature passed a bill submitted by the Governor to advance the sale of the Guam Telephone Authority.[35]

E. Water system, sanitation and utilities

52. Approximately 74 per cent of the water supply is provided by the Guam Waterworks Authority. The remainder is produced by the Air Force and Navy installations on Guam. The Government's water sources are groundwater and surface water (Ugum River). The Navy water source is a surface reservoir (Fena

Lake) in the southern part of the island. The state of the water and sewerage system is poor. Leaks are frequent, posing significant health and environmental problems and inhibiting development.[36] In December 2002, the United States Government filed a complaint against the Waterworks Authority and the Government of Guam for repeated violations of the federal clean water and safe drinking water acts.[37]

53. According to press reports, during 2003 the Territory experienced several water shortages, notices to boil water and sewage overflows. Several towns were basically without water from August to late October. In late October, the Governor declared a state of emergency for the south, providing the agency with $250,000 to address the water problems. Part of the problem stemmed from supertyphoon Pongsona. At the end of 2003, the non-profit group Community Partners in Recovery reported 1,000 clients had still not recovered from the storm and that many of them were without power and running water.

54. In November 2002 the island elected its first Consolidated Commission on Utilities. The Commission oversees the operations of Waterworks and the Guam Power Authority. The Commission was able to convince the United States Environmental Protection Agency to give the utilities authorities a final chance before taking them over and placing them in receivership. In December 2002, the Commission asked Waterworks managers to resign by January to appoint new ones.[37]

55. The funds received from the state of emergency were used for new pumps, with an additional $100,000 to purchase large pumps for the Ugum Water Treatment Plant and its intake. After getting new Flocculator equipment and undertaking the proper application of polymers to clean the water, the agency was able to end the crisis. Work has continued to improve the Ugum plant and for the first time the agency is now producing enough water to support the entire southern part of the island.

56. At the end of the year, the Guam representative to the United States Congress announced that $300,000 in federal funding for the Guam Waterworks Authority for water and wastewater infrastructure improvements had been granted, with an additional $400,000 for a flood mitigation bridge improvement project for the Hagåtña River. According to Congresswoman Bordallo, the bridge infrastructure improvement would contribute to the revitalization of the Hagåtña area, allowing additional development and improving traffic flow and safety.

57. As a result of legislation introduced in April 2003 by the Governor to repeal and amend the provisions of law that prohibited privatization, the Guam Waterworks Authority hired a financial consultant and issued a request for proposals to hire a technical consultant to help them craft the necessary work to privatize the agency. Many worldwide companies have expressed an interest in taking over the agency and privatization is expected to become a reality by the latter part of 2004.[38]

58. The Guam Power Authority, an autonomous agency of the Government of Guam, is responsible for providing electricity throughout the island.

V. Military issues

59. Guam was administered by the United States Navy until 1950, and remains the site of extensive United States naval and air force installations. Petroleum storage,

munitions stowage, extensive communications facilities and other service industries that cater to the military establishment form the basis of the military infrastructure in Guam.

60. The United States military presence and spending on Guam have decreased considerably during the last decade. In 2000, the Navy had about 4,000 military personnel, about 4,000 dependants and 2,000-3,000 contract civilian workers. The Air Force had about 1,800 military personnel, almost 2,200 dependants and less than 400 civilian workers.[31] In March 2001, a survey conducted by the Guam Chamber of Commerce reported that 83 per cent of Guam's 445 registered voters supported an increase in military activity in Guam and agreed that it made "a positive contribution to Guam".[39] In 2002, the United States Navy transferred two Los Angeles class, fast-attack nuclear submarines in Guam, the *USS Corpus Christi* and the *USS San Francisco*. A third submarine is now expected to reach Guam in mid-2004. Relocation of these submarines will add more Navy personnel to the base at Guam. The personnel of three submarines and the submarine tender, the *USS Frank Cable*, which can perform nuclear vessel repairs, totals 650 persons.[40] In September 2003, the Department of Defense announced the award of two construction projects at Guam's Andersen Air Force Base. One project, worth $32.3 million, involved the design and construction of an aircraft maintenance hangar, which could withstand supertyphoon conditions. Upgrades to 112 housing units at the Base, worth $12.8 million, were also announced. In November the United States Senate approved the fiscal year 2004 national Defense Authorization Act, which set aside $26 million for a new medical facility at the Base and $1.7 million for the construction of a wharf fender system to assist with the docking of the submarine fleet in Guam. While the press reported that the Base was seriously being considered as a permanent home for some bomber aircrafts, the Senate Act required the Navy to submit a report within 120 days on its future plans to base aircraft carriers in Guam. In February 2004, Air Force officials announced that as part of a 90-day rotation to back up United States forces in the region, 300 military personnel and six B-52 bombers would be deployed to Guam. The United States Senate increased the number of congressional appointments from two to three allotted to the Guam Delegate's office to each of the United States military academies.[41]

61. At the beginning of 2003, the United States Department of Defense deployed 24 long-range strategic bombers to Guam.[42] The bombers returned to their home bases in the US in middle of the year.[43]

VI. Land issues

62. As reported in previous working papers, the question of land use and ownership is a major and ongoing consideration on Guam. This question comprises two major issues: (a) the return of unused or underutilized lands held by the Department of Defense; and (b) the return of these lands to the original Chamorro landowners. The United States Government, principally its Department of Defense, currently holds title under United States law to over one third of the island. This land was condemned and acquired from private landowners by the Department of Defense during the years following the Second World War, when Guam was under the administration of the United States military, initially on a year-to-year lease between 1945 and 1950 and subsequently acquired by the United States Government through eminent domain procedures after the extension of citizenship. In 1994,

Congress passed the Guam Excess Lands Act (public law 103-339) to return 3,200 acres to the people of Guam. In 2003, 143 parcels of land benefiting 2,000 families were returned, in addition to a previous total of 30 parcels of returned land.[44]

VII. Social conditions

A. General

63. There have been no further developments since the issuance of the previous working paper (A/AC.109/2003/15).

B. Labour

1. General

64. According to the Guam Department of Labor, between June 2001 and June 2002 Guam's private sector lost about 4,000 jobs and shrank to 39,490 because of lay-offs and business closures. Guam's unemployment rate was at 11.4 per cent in 2002, down from 13.5 per cent in 2001.[3]

65. In 2001, over a quarter (28 per cent) of the workforce was in the service sector, of which over a third worked in hotels and other lodging places. The retail trade sector employed 20 per cent of the workforce, transportation and public utilities accounted for another 8 per cent, the construction sector for 7 per cent and the financial sector for 4 per cent. The rest of private sector employment is made up of wholesale trade (3.3 per cent), manufacturing (2.6 per cent) and agriculture (less than 1 per cent).

2. Public service

66. Both the Government of Guam and the United States Federal Government in Guam undertook substantial downsizing measures in 2000. The Government of Guam undertook a buyout and early retirement programme and the federal Government began outsourcing functions to private contractors. As a result, employment by the Government of Guam declined by 7.2 per cent from 13,540 to 12,560 jobs in fiscal year 2000. Federal jobs declined by 30.0 per cent, from 4,530 to 3,170 jobs in the same time period. The government sector now accounts for just over 26 per cent of the total civilian employment. During the first nine months of 2003, 718 employees were moved from Guam's General Fund into federally funded jobs.[44]

C. Education

67. Guam has an extensive public and private education system. The public education system includes the University of Guam, the Guam Community College, four public high schools, seven middle schools and 27 elementary schools. The private system includes two business colleges, five high schools and several elementary schools; most of these are affiliated with Roman Catholic and Protestant religious denominations. A new bill, the Guam Charter School Act, allowed the

establishment of private charter schools independent from the Department of Education.[45]

68. For fiscal year 2004, which started on 1 October 2003 and ends on September 2004, the Department of Education received $136.6 million, $30 million short of what the new superintendent had requested while pointing out that the Department continued to suffer from a lack of essentials — air conditioning, working buses, substitute teachers, nurses, school supplies, library books and cafeteria equipment. Following supertyphoon Pongsona, the Federal Emergency Management Agency set aside more than $6 million to assist Guam in replacing damaged classrooms. In December 2003, the Federal Loan Guarantee Program was extended to Guam. Possible projects for which the Guam Housing and Urban Renewal Authority could apply for financing would include construction of schools.[46] In his 2003 state of the island address, Governor Camacho announced that over the next three years the Government would build three new high schools and four new elementary schools, to alleviate overcrowding and the need for busing and to improve the existing infrastructure.[47]

69. For the school year 2002/03, the Department of Education reported that 9,081 students were enrolled in high school, 7,554 in middle school and 14,705 in elementary school.[48]

70. One of the Department of Education's largest projects in 2003 was the financial audit for fiscal years 1998 to 2001. The audits were completed in November, but were too late to avert the attention of federal officials. In September, federal officials placed the Department on a "high risk status". With that label came sanctions, including stringent reporting requirements. Should the Department fail to meet those requirements, the federal department may take over the federal programme, or require Guam's Department to pay for the programme of their own and then seek reimbursement from the federal Government. At the beginning of 2003, the Government announced a cost-saving plan for the Department that would save about $410 million. As part of the plan, the Department furloughed 1,177 non-teaching employees for four weeks during the summer.[49]

D. Public health

71. There have been no further developments since the issuance of the previous working paper (A/AC.109/2003/15).

E. Immigration

72. A major issue in the federal Government's relations with Guam is the migration from the Freely Associated States of the Marshall Islands, Micronesia (Federated States of) and Palau. The Compact of Free Association Act of 1986, which established the relationship between the United States and the Federated States of Micronesia, and the Marshall Islands, authorized unrestricted migration from those Pacific island nations to the Territories and possessions. That enabled citizens of those islands to enter Guam and to engage lawfully in occupations as non-immigrant aliens.[50] These immigrants and their American-born children have settled in Guam, Hawaii and the Northern Mariana Islands. This has strained the resources of the recipient States and Territories.

73. In order to reimburse Guam and other compact Territories for the cost of providing government services for regional immigrants, the federal Government has issued Compact impact funding. In December 2003, the Compact of Free Association Amendments Act of 2003 was passed, renewing the original Compact of 1986 for another 20 years. Additional Compact impact reimbursement is authorized if impact costs rise above the mandatory appropriation of $30 million per year. An estimated $12 million-$14 million in annual funding is expected for Guam. At the same time, at the request of the Governor of Guam, the President is authorized to release, reduce or waive, in whole or in part, any amounts owed by the Government of Guam to the United States Government as an offset for past un-reimbursed Compact-impact costs. These costs are estimated by Guam to total $187 million.[51]

74. In addition, the immigration policies currently applied to Guam have resulted in a considerable growth in migration from countries, particularly the Philippines, into Guam. The 2000 census indicated that, while the Chamorro population stood at 65,243, the non-Chamorro population was 86,798.

F. Human rights and related issues

75. There have been no further developments since the issuance of the previous working paper (A/AC.109/2003/15).

VIII. Environment

76. Guam continues to experience environmental problems related to the United States occupation during the Second World War (see A/AC.109/2001/4, para. 83). In January 2002, the Navy agreed to pay $42,000 in fines and to spend $380,000 to improve its waste management, after the United States Environmental Protection Agency found that the Navy Public Works Center had handled hazardous waste poorly in the year 2000.[52] Supertyphoon Pongsona has also caused extensive damage to the island's ecosystem. However, how long it will take to assess and repair is still not known.

IX. Relations with international organizations and entities

A. United Nations system

77. There have been no further developments since the issuance of the previous working paper (A/AC.109/2003/15).

B. Regional organizations and entities

78. Guam is a member of the secretariat of the Pacific Community, a 27-member organization dedicated to providing technical advice, assistance, training and research to promote the development of its members.

X. Future status of the Territory

A. Position of the territorial Government

79. The issue of political status for the island has not been addressed since the new Governor, Felix Camacho, took office in January 2003. In the Governor's state of the island addresses of May 2003 and February 2004, the subject was not mentioned. However, in a letter dated 8 January 2004 addressed to the Decolonization Unit of the Department of Political Affairs of the Secretariat, the Guam Commission on Decolonization, which is chaired by the Governor, informed the United Nations that:

> "The Non-Self Governing Territory of Guam will be holding a plebiscite on 2 November 2004, to determine its future political status. This plebiscite is being funded and authorized by the Guam Legislature through Public law No. 23-147, codified at 21 GCA §21101 et seq.
>
> "The administering Power for the Non-Self Governing Territory of Guam continues to ignore the right to self-determination of the colonized Chamorros. However, the Guam Legislature recognizes and acknowledges the inherent right to self-determination by the Chamorros, and, thus, the funding of the plebiscite by the Guam Legislature.
>
> "The Commission on Decolonization is requesting that the United Nations send a mission to monitor the self-determination plebiscite, as prescribed by the United Nations covenants and conventions."

B. Position of the administering Power

80. In a statement made at the 72nd plenary meeting of the General Assembly on 9 December 2003 (see A/58/PV.72), a representative of the United States said that the United States could not support the draft resolution (A/58/L.21) on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. By adopting a narrow definition of decolonization, the draft resolution failed to take into account the complex reality of Non-Self-Governing Territories. For the United States, the very term "non-self-governing" seemed inappropriate for those who were able to establish their own Constitution, elect their own public officers, have representation in Washington, D. C., and choose their own economic path.

81. The United States was fully supportive when countries chose independence and was proud to welcome them as equal and sovereign partners. For Territories that did not choose independence, however, the United States also supported the right of people in those Territories to a full measure of self-government, including the rights to integration and free association. The world encompassed a variety of peoples, places and political circumstances, and that richness did not allow for just one path. The United States believed that a single standard of decolonization should not be applied to every Territory, and it called upon all Member States to respect the choices made by residents of Non-Self-Governing Territories.

82. In conclusion, he said that the United States looked forward to a significant dialogue with the Special Committee in 2004, and that it was the hope that all

parties would cooperate to achieve a reduction in the number of Non-Self-Governing Territories.

C. Consideration by the United Nations

83. On 9 December 2003, the General Assembly adopted without a vote resolutions 58/108 A and B. Section VI of resolution 58/108 B, a consolidated resolution on 11 Non-Self-Governing Territories, is devoted specifically to Guam.

Notes

[1] The information contained in the present working paper was derived from published sources, including Internet sites.

[2] *Pacific Daily News*, 9 February 2002.

[3] Bank of Hawaii, *Guam Economic Report October 2003* (see www.boh.com/econ/pdfs/gm2003.pdf).

[4] Department of the Interior, Office of Insular Affairs, *Fact Sheet*, 1998.

[5] *Pacific Daily News*, 7 October 2003 (see www.guampdn.com).

[6] http://guamlegislature.com/27th_Guam_Legislature/Public_Laws_27th.

[7] BBC Monitoring Asia Pacific, 6 November 2002; *Pacific Daily News*, "Camacho wins election" (see www.guampdn.com/news/index.html).

[8] "Governing Guam Before and After the War", Guam Political Status Education Coordination Committee, Agana, Guam, 1994, p. 137.

[9] BBC Monitoring Asia Pacific, 27 March 2002.

[10] *Pacific Daily News*, Year in Review 2003 (see www.guampdn.com).

[11] *Pacific Daily News*, 11 October 2003 (see www.guampdn.com).

[12] British Broadcasting Corporation, 6 May 2003.

[13] *Pacific Daily News*, 27 September 2003 (see www.guampdn.com).

[14] *Samoa News*, 4 December 2002.

[15] BBC Monitoring Asia Pacific, 13 January 2003.

[16] www.encarta.com, "Guam".

[17] State of our island address by Felix Camacho, Governor of Guam, on 4 February 2004; and *Pacific Daily News*, Year in Review 2003 (see www.guampdn.com).

[18] *Pacific Daily News*, Year in Review 2003 (see www.guampdn.com).

[19] www.nga.org/governors.

[20] Agence France-Presse, 14 November 2003.

[21] Agence France-Presse, and Deutsche Presse-Agentur, 13 January 2004.

[22] *The New York Times*, 10 March 2003, "Guam, Hurt by Slump, Hopes for Economic Help from Military".

[23] www.admin.gov.gu/commerce.

[24] *Pacific Daily News*, 4 October 2003 (see www.guampdn.com).

[25] *The New York Times*, 23 March 2003, "Guam Takes Steps to Reverse Setbacks".

[26] State of our island address by Felix Camacho, Governor of Guam, on 4 February 2004; and news release, Congresswoman Bordallo, 29 October 2003 (see www.house.gov/Bordallo).

[27] Guam Visitors Bureau, Department of Commerce (see www.admin.gov.gu/commerce); and Bank of Hawaii, *Guam Economic Report, October 2003*, p.18 (see www.boh.com/econ/pdfs/gm2003.pdf).

[28] *Guam Economic Report, October 2003*, p.4.

[29] News release, Congresswoman Bordallo, 10 December 2003.

[30] *Pacific Daily News*, 2 January 2002.

[31] Bank of Hawaii, *Economic Report on Guam, August 2001*.

[32] BBC Monitoring Asia Pacific, 17 June 2002.

[33] Ibid., 20 March 2003.

[34] Ibid., 16 December 2002.

[35] BBC, 11 July 2003; and State of our island address by Felix Camacho, Governor of Guam, on 4 February 2004.

[36] *Pacific Daily News*, 10 December 2001.

[37] Ibid., Year in Review 2002, "Water Contamination, Pressure Woes" (see www.guampdn.com).

[38] Ibid., Year in Review 2003, "*Problems with the Water System*" (see www.guampdn.com).

[39] *Pacific Daily News*, 21 March 2001.

[40] Ibid., Year in Review 2002, "Military Construction Projects Soar" (see www.guampdn.com); and news release, Congressman Underwood, 13 June 2001.

[41] Press release, Congresswoman Bordallo, 13 November 2003 (see www.house.gov/bordallo); and *Pacific Daily News*, 27 September 2003.

[42] BBC Monitoring Asia Pacific, 28 March 2003.

[43] BBC, 27 May 2003.

[44] State of our island address by Felix Camacho, Governor of Guam, on 4 February 2004.

[45] *Pacific Daily News*, 30 January 2002.

[46] News release, Congresswoman Bordallo, 17 December 2003 (see www.house.gov/bordallo).

[47] State of our island address by Felix Camacho, Governor of Guam, on 13 May 2003; *Pacific Daily News*, Year in Review 2003, "State of Education" (see www.guampdn.com).

[48] *Pacific Daily News*, Year in Review 2002, "Education" (see www.guampdn.com).

[49] *Pacific Daily News*, 10 April 2003; and *Pacific Daily News*, Year in Review 2003, "State of Education" (see www.guampdn.com).

[50] United States Department of the Interior, Office of Insular Affairs, "Report on the State of the Islands", 1999, chap. 4.

[51] News release, Congresswoman Bordallo, 17 December 2003 (see www.house.gov/bordallo).

[52] *Pacific Daily News*, 11 January 2002.